

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO. 4:15 CR 427-1
	)	
Plaintiff,	)	
	)	
v.	)	JUDGE DONALD C. NUGENT
	)	
DOCKERY CLEVELAND,	)	
	)	
Defendants.	)	<u>MEMORANDUM OPINION</u>
	)	<u>AND ORDER</u>

This case is before the Court on remand from the Sixth Circuit Court of Appeals. (ECF #181, 182). The government conceded reversible error and moved for a remand with instructions for re-sentencing. The parties now agree, and the Sixth Circuit has held that the offense conduct underlying the attempted possession with intent to distribute cocaine (October 19, 2015 and October 20, 2015) involved a “single indivisible course of conduct” and that Mr. Cleveland’s counsel was ineffective for failing to challenge his conviction and sentence on these grounds. The remand instructions require this Court to vacate Mr. Cleveland’s sentence on Count 3, merge Counts 2 and 3, and re-sentence accordingly.

For the above reasons, Mr. Cleveland’s conviction on Count Three is hereby merged with his conviction on Count 2. His sentence shall be amended as follows: Dockery Cleveland is

sentenced to the custody of the Bureau of Prisons for three hundred and sixty (360) months each on Count One and Count Two of the indictment, to run concurrently. Supervised release is ordered for a term of five years with the usual conditions as directed. A special assessment is due in the amount of \$200.00. All other terms of the original judgment remain intact, including forfeiture of \$111,020.00 that was seized on October 20, 2015 from Menford McCain in Warren, OH.

IT IS SO ORDERED.

Date: \_\_\_\_\_

January 29, 2024

Donald C. Nugent  
Donald C. Nugent  
United States District Judge